

# EXHIBIT B

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

RICHARD KADREY, et al.,  
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Individual and Representative Plaintiffs,  
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v.  
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META PLATFORMS, INC.,  
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Defendant.  
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Case No. 3:23-cv-03417-VC  
**DEFENDANT META PLATFORMS,  
INC.'S [PROPOSED] PROTECTIVE  
ORDER FOR LITIGATION INVOLVING  
PATENTS, HIGHLY SENSITIVE  
CONFIDENTIAL INFORMATION  
AND/OR TRADE SECRETS (FRCP  
26(c)(1)(G), L.R. 7-1)**

1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve production of  
3 confidential, proprietary, or private information for which special protection from public disclosure  
4 and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly,  
5 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective  
6 Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures  
7 or responses to discovery and that the protection it affords from public disclosure and use extends  
8 only to the limited information or items that are entitled to confidential treatment under the  
9 applicable legal principles. The parties further acknowledge, as set forth in Section 14.4, below, that  
10 this Stipulated Protective Order does not entitle them to file confidential information under seal;  
11 Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be  
12 applied when a party seeks permission from the court to file material under seal.

2. DEFINITIONS

2.1 Challenging Party: a Party or Non-Party that challenges the designation of  
information or items under this Order.

2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is  
generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of  
Civil Procedure 26(c).

2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well  
as their support staff).

2.4 [Intentionally left blank]

2.5 Designating Party: a Party or Non-Party that designates information or items that it  
produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY  
CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE  
CODE”.

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium  
or manner in which it is generated, stored, or maintained (including, among other things, testimony,  
transcripts, and tangible things), that are produced or generated in disclosures or responses to

1 discovery in this matter.

2       2.7    Expert: a person with specialized knowledge or experience in a matter pertinent to  
3 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as  
4 a consultant in this action, (2) is not a past or current employee of a Party or of a Party's competitor,  
5 and (3) at the time of retention, is not anticipated to become an employee of a Party or of a Party's  
6 competitor.

7       2.8    "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or  
8 Items: extremely sensitive "Confidential Information or Items," disclosure of which to another Party  
9 or Non-Party would create a substantial risk of serious harm that could not be avoided by less  
10 restrictive means.

11       2.9    "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items: extremely  
12 sensitive "Confidential Information or Items" representing computer code and associated comments  
13 and revision histories, formulas, engineering specifications, or schematics that define or otherwise  
14 describe in detail the algorithms or structure of software or hardware designs, disclosure of which  
15 to another Party or Non-Party would create a substantial risk of serious harm that could not be  
16 avoided by less restrictive means.

17       2.10   House Counsel: attorneys who are employees of a party to this action. House Counsel  
18 does not include Outside Counsel of Record or any other outside counsel.

19       2.11   Non-Party: any natural person, partnership, corporation, association, or other legal  
20 entity not named as a Party to this action.

21       2.12   Outside Counsel of Record: attorneys who are not employees of a party to this action  
22 but are retained to represent or advise a party to this action and have appeared in this action on  
23 behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

24       2.13   Party: any party to this action, including all of its officers, directors, employees,  
25 consultants, retained experts, and Outside Counsel of Record (and their support staff).

26       2.14   Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
27 Material in this action.

28       2.15   Professional Vendors: persons or entities that provide litigation support services

1 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,  
2 storing, or retrieving data in any form or medium) and their employees and subcontractors.

3       2.16 Protected Material: any Disclosure or Discovery Material that is designated as  
4 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or as  
5 “HIGHLY CONFIDENTIAL – SOURCE CODE.”

6       2.17 Receiving Party: a Party that receives Disclosure or Discovery Material from a  
7 Producing Party.

8       3. SCOPE

9       The protections conferred by this Stipulation and Order cover not only Protected Material  
10 (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all  
11 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,  
12 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.  
13 However, the protections conferred by this Stipulation and Order do not cover the following  
14 information: (a) any information that is in the public domain at the time of disclosure to a Receiving  
15 Party or becomes part of the public domain after its disclosure to a Receiving Party as a result of  
16 publication not involving a violation of this Order, another Court’s Order, unlawful conduct, or a  
17 breach of a confidentiality obligation to the Designating Party, including becoming part of the public  
18 record through trial or otherwise; and (b) any information known to the Receiving Party prior to the  
19 disclosure or obtained by the Receiving Party after the disclosure from a source who obtained the  
20 information lawfully and under no obligation of confidentiality to the Designating Party. Any use  
21 of Protected Material at trial shall be governed by a separate agreement or order.

22       4. DURATION

23       Even after final disposition of this litigation, the confidentiality obligations imposed by this  
24 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order  
25 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and  
26 defenses in this action, with or without prejudice; and (2) final judgment herein after the completion  
27 and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the  
28 time limits for filing any motions or applications for extension of time pursuant to applicable law.

5. DESIGNATING PROTECTED MATERIAL

1        5.1     Exercise of Restraint and Care in Designating Material for Protection. Each Party or  
2 Non-Party that designates information or items for protection under this Order must take care to  
3 limit any such designation to specific material that qualifies under the appropriate standards. To the  
4 extent it is practical to do so, the Designating Party must designate for protection only those parts  
5 of material, documents, items, or oral or written communications that qualify – so that other portions  
6 of the material, documents, items, or communications for which protection is not warranted are not  
7 swept unjustifiably within the ambit of this Order.

8        Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown  
9 to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily  
10 encumber or retard the case development process or to impose unnecessary expenses and burdens  
11 on other parties) expose the Designating Party to sanctions.

12        If it comes to a Designating Party's attention that information or items that it designated for  
13 protection do not qualify for protection at all or do not qualify for the level of protection initially  
14 asserted, that Designating Party must promptly notify all other parties that it is withdrawing the  
15 mistaken designation.

16        5.2     Manner and Timing of Designations. Except as otherwise provided in this Order (see,  
17 e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or  
18 Discovery Material that qualifies for protection under this Order must be clearly so designated  
19 before the material is disclosed or produced.

20        Designation in conformity with this Order requires:

21        (a) for information in documentary form (e.g., paper or electronic documents, but excluding  
22 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the  
23 legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or  
24 “HIGHLY CONFIDENTIAL – SOURCE CODE” to each page that contains protected material. If  
25 only a portion or portions of the material on a page qualifies for protection, to the extent it is  
26 practical, the Producing Party also must clearly identify the protected portion(s) (e.g., by making  
27 appropriate markings in the margins) and must specify, for each portion, the level of protection

1 being asserted.

2 For Protected Material that is produced in native electronic format, the designated legend  
3 must be included in the file name and on any slipsheets when produced.

4 A Party or Non-Party that makes original documents or materials available for inspection  
5 need not designate them for protection until after the inspecting Party has indicated which material  
6 it would like copied and produced. During the inspection and before the designation, all of the  
7 material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL –  
8 ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the documents it wants  
9 copied and produced, the Producing Party must determine which documents, or portions thereof,  
10 qualify for protection under this Order. Then, before producing the specified documents, the  
11 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or “HIGHLY  
12 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE  
13 CODE) to each page that contains Protected Material. If only a portion or portions of the material  
14 on a page qualifies for protection, the Producing Party also must clearly identify the protected  
15 portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each  
16 portion, the level of protection being asserted. For avoidance of doubt, this paragraph does not  
17 apply to the production of material designated as “HIGHLY CONFIDENTIAL – SOURCE  
18 CODE” prior to being offered for inspection as set forth in Section 9 of this Order.

19 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the  
20 Designating Party identify on the record, before the close of the deposition, hearing, or other  
21 proceeding, all protected testimony and specify the level of protection being asserted. When it is  
22 impractical to identify separately each portion of testimony that is entitled to protection and it  
23 appears that substantial portions of the testimony may qualify for protection, the Designating Party  
24 has up to 21 days to identify the specific portions of the testimony as to which protection is sought  
25 and to specify the level of protection being asserted. Only those portions of the testimony that are  
26 appropriately designated for protection within the 21 days shall be covered by the provisions of  
27 this Stipulated Protective Order. Alternatively, a Designating Party may specify, at the deposition  
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1 or up to 21 days afterwards, that the entire transcript shall be treated as “CONFIDENTIAL” or  
2 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

3 Parties shall give the other parties notice if they reasonably expect a deposition, hearing, or  
4 other proceeding to include Protected Material so that the other parties can ensure that only  
5 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”  
6 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition  
7 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL  
8 – ATTORNEYS’ EYES ONLY.”

9 Transcripts containing Protected Material shall have an obvious legend on the title page that  
10 the transcript contains Protected Material, and the title page shall be followed by a list of all pages  
11 (including line numbers as appropriate) that have been designated as Protected Material and the  
12 level of protection being asserted by the Designating Party. The Designating Party shall inform the  
13 court reporter of these requirements. Any transcript that is prepared before the expiration of a 21-  
14 day period for designation shall be treated during that period as if it had been designated “HIGHLY  
15 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After  
16 the expiration of that period, the transcript shall be treated only as actually designated.

17 (c) for information produced in some form other than documentary and for any other tangible  
18 items, that the Producing Party affix in a prominent place on the exterior of the container or  
19 containers in which the information or item is stored the legend “CONFIDENTIAL” or “HIGHLY  
20 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE  
21 CODE”. If only a portion or portions of the information or item warrant protection, the Producing  
22 Party, to the extent practicable, shall identify the protected portion(s) and specify the level of  
23 protection being asserted.

24 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
25 designate qualified information or items does not, standing alone, waive the Designating Party’s  
26 right to secure protection under this Order for such material. Upon timely correction of a  
27 designation, the Receiving Party must make reasonable efforts to assure that the material is treated  
28 in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

1       6.1    Timing of Challenges. Any Party or Non-Party may challenge a designation of  
2 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality  
3 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
4 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to  
5 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
6 original designation is disclosed.

7       6.2    Meet and Confer. The Challenging Party shall initiate the dispute resolution process  
8 by providing written notice of each designation it is challenging and describing the basis for each  
9 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must  
10 recite that the challenge to confidentiality is being made in accordance with this specific paragraph  
11 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must  
12 begin the process by conferring directly (in voice to voice dialogue; other forms of communication  
13 are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging  
14 Party must explain the basis for its belief that the confidentiality designation was not proper and  
15 must give the Designating Party an opportunity to review the designated material, to reconsider the  
16 circumstances, and, if no change in designation is offered, to explain the basis for the chosen  
17 designation. A Challenging Party may proceed to the next stage of the challenge process only if it  
18 has engaged in this meet and confer process first or establishes that the Designating Party is  
19 unwilling to participate in the meet and confer process in a timely manner.

20       6.3    Judicial Intervention. If the Parties cannot resolve a challenge without court  
21 intervention, the Designating Party shall follow the dispute procedures outlined in the Discovery  
22 Standing Order for Magistrate Judge Thomas S. Hixson, within 21 days of the initial notice of  
23 challenge or within 14 days of the parties agreeing that the meet and confer process will not resolve  
24 their dispute, whichever is earlier. Each such motion must be accompanied by a competent  
25 declaration affirming that the movant has complied with the meet and confer requirements imposed  
26 in the preceding paragraph. Failure by the Designating Party to follow such procedures, including  
27 the required declaration within 21 days (or 14 days, if applicable) shall automatically waive the  
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1 confidentiality designation for each challenged designation. In addition, the Challenging Party may  
2 follow the dispute procedures outlined in the Discovery Standing Order for Magistrate Judge  
3 Thomas S. Hixson to challenge a confidentiality designation at any time if there is good cause for  
4 doing so, including a challenge to the designation of a deposition transcript or any portions thereof.  
5 Any motion brought pursuant to this provision must be accompanied by a competent declaration  
6 affirming that the movant has complied with the meet and confer requirements imposed by the  
7 preceding paragraph.

8 The burden of persuasion in any such challenge proceeding shall be on the Designating  
9 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose  
10 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.  
11 Unless the Designating Party has waived the confidentiality designation by failing to file a motion  
12 to retain confidentiality as described above, all parties shall continue to afford the material in  
13 question the level of protection to which it is entitled under the Producing Party's designation until  
14 the court rules on the challenge.

15 7. **ACCESS TO AND USE OF PROTECTED MATERIAL**

16 7.1 **Basic Principles.** A Receiving Party may use Protected Material that is disclosed or  
17 produced by another Party or by a Non-Party in connection with this case only for prosecuting,  
18 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to  
19 the categories of persons and under the conditions described in this Order. When the litigation has  
20 been terminated, a Receiving Party must comply with the provisions of section 15 below (FINAL  
21 DISPOSITION).

22 Protected Material must be stored and maintained by a Receiving Party at a location and in  
23 a secure manner that ensures that access is limited to the persons authorized under this Order.

24 7.2 **Disclosure of “CONFIDENTIAL” Information or Items.** Unless otherwise ordered  
25 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any  
26 information or item designated “CONFIDENTIAL” only to:

27 (a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of  
28 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for

1 this litigation;

2 (b) the officers, directors, and employees (including House Counsel) of the Receiving Party  
3 to whom disclosure is reasonably necessary for this litigation and who have signed the  
4 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

5 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably  
6 necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be  
7 Bound” (Exhibit A);

8 (d) the court and its personnel;

9 (e) court reporters and their staff, professional jury or trial consultants,<sup>1</sup> and Professional  
10 Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the  
11 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

12 (f) during their depositions, witnesses in the action to whom disclosure is reasonably  
13 necessary, with the consent of the Designating Party (which shall not unreasonably be withheld) or  
14 as ordered by the Court, and who have signed the “Acknowledgment and Agreement to Be Bound”  
15 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of  
16 transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be  
17 separately bound by the court reporter and may not be disclosed to anyone except as permitted under  
18 this Stipulated Protective Order;

19 (g) the author or recipient of a document containing the information or a custodian or other  
20 person who otherwise possessed or knew the information; and

21 (h) any mediator who is assigned to this matter, and his or her staff, who have signed the  
22 “Acknowledgment and Agreement to Be Bound” (Exhibit A).

23 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and  
24 “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items. Unless otherwise ordered

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27 <sup>1</sup> Disclosure to mock jurors is acceptable with the signing of a confidentiality agreement with  
28 provisions on dissemination and disclosure at least as strict as those included in this Protective  
Order, and who have been hired by a trial consulting firm who has signed “Acknowledgment and  
Agreement to Be Bound” (Exhibit A).

1 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any  
2 information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or  
3 “HIGHLY CONFIDENTIAL – SOURCE CODE” only to:

4 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of  
5 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for  
6 this litigation;

7 (b) [Omitted.]

8 (c) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this  
9 litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),  
10 and (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below, have been followed;

11 (d) the court and its personnel;

12 (e) court reporters and their staff, professional jury or trial consultants<sup>2</sup> including mock jurors  
13 and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who  
14 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

15 (f) the author or recipient of a document containing the information or a custodian or other  
16 person who otherwise possessed or knew the information; and

17 (g) any mediator who is assigned to this matter and his or her staff, who have signed the  
18 “Acknowledgment and Agreement to Be Bound” (Exhibit A).

19 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY  
20 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE  
21 CODE” Information or Items to Experts.

22 (a)(1) [Intentionally left blank]

23 (a)(2) Unless otherwise ordered by the court or agreed to in writing by the Designating  
24 Party, a Party that seeks to disclose to an Expert (as defined in this Order) any information or item

26 \_\_\_\_\_  
27 <sup>2</sup> Disclosure to mock jurors of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
28 material, but not “HIGHLY CONFIDENTIAL – SOURCE CODE” material, is acceptable with  
the signing of a confidentiality agreement with provisions on dissemination and disclosure at least  
as strict as those included in this Protective Order, and who have been hired by a trial consulting  
firm who has signed “Acknowledgment and Agreement to Be Bound” (Exhibit A).

1 that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or  
2 “HIGHLY CONFIDENTIAL – SOURCE CODE” pursuant to paragraph 7.3(c) first must make a  
3 written request to the Designating Party that (1) identifies the general categories of “HIGHLY  
4 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE  
5 CODE” information that the Receiving Party seeks permission to disclose to the Expert, (2) sets  
6 forth the full name of the Expert and the city and state of his or her primary residence, (3) attaches  
7 a copy of the Expert’s current resume, (4) identifies the Expert’s current employer(s), (5) identifies  
8 each person or entity from whom the Expert has received compensation or funding for work in his  
9 or her areas of expertise or to whom the expert has provided professional services, including in  
10 connection with a litigation, at any time during the preceding five years,<sup>3</sup> and (6) identifies (by name  
11 and number of the case, filing date, and location of court) any litigation in connection with which  
12 the Expert has offered expert testimony, including through a declaration, report, or testimony at a  
13 deposition or trial, during the preceding five years.

14 (b) A Party that makes a request and provides the information specified in the preceding  
15 respective paragraphs may disclose the subject Protected Material to the identified Expert unless,  
16 within 14 days of delivering the request, the Party receives a written objection from the  
17 Designating Party. Any such objection must set forth in detail the grounds on which it is based.

18 (c) A Party that receives a timely written objection must meet and confer with the  
19 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by  
20 agreement within seven days of the written objection. If no agreement is reached, the Party  
21 seeking to make the disclosure to the Expert may follow the dispute procedures outlined in the  
22 Discovery Standing Order for Magistrate Judge Thomas S. Hixson, seeking permission from the  
23 court to do so. Any such motion must describe the circumstances with specificity, set forth in  
24 detail the reasons why the disclosure to the Expert is reasonably necessary, assess the risk of harm

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27 <sup>3</sup> If the Expert believes any of this information is subject to a confidentiality obligation to a third-  
28 party, then the Expert should provide whatever information the Expert believes can be disclosed  
without violating any confidentiality agreements, and the Party seeking to disclose to the Expert  
shall be available to meet and confer with the Designating Party regarding any such engagement.

1 that the disclosure would entail, and suggest any additional means that could be used to reduce  
2 that risk. In addition, any such motion must be accompanied by a competent declaration  
3 describing the parties' efforts to resolve the matter by agreement (i.e., the extent and the content of  
4 the meet and confer discussions) and setting forth the reasons advanced by the Designating Party  
5 for its refusal to approve the disclosure.

6 In any such proceeding, the Party opposing disclosure to the Expert shall bear the burden  
7 of proving that the risk of harm that the disclosure would entail (under the safeguards proposed)  
8 outweighs the Receiving Party's need to disclose the Protected Material to its Expert.

9 8. **PROSECUTION BAR**

10 Absent written consent from the Producing Party, any individual who receives access to  
11 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL –  
12 SOURCE CODE" information shall not be involved in the prosecution of patents or patent  
13 applications relating to the subject matter of the highly confidential technical information to which  
14 access is received by such individual, before any foreign or domestic agency, including the United  
15 States Patent and Trademark Office ("the Patent Office"). For purposes of this paragraph,  
16 "prosecution" includes directly or indirectly drafting, amending, advising, or otherwise affecting the  
17 scope or maintenance of patent claims.<sup>4</sup> To avoid any doubt, "prosecution" as used in this paragraph  
18 does not include representing a party challenging a patent before a domestic or foreign agency  
19 (including, but not limited to, a reissue protest, *ex parte* reexamination, post grant review, or *inter  
partes* review). This Prosecution Bar shall begin when access to "HIGHLY CONFIDENTIAL –  
20 ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" information  
21 is first received by the affected individual and shall end two (2) years after final termination of this  
22 action.

24 9. **SOURCE CODE**

25 (a) To the extent production of source code becomes necessary in this case, a  
26 Producing Party may designate source code as "HIGHLY CONFIDENTIAL - SOURCE CODE"

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28 <sup>4</sup> Prosecution includes, for example, original prosecution, reissue and reexamination proceedings.

1 if it comprises or includes confidential, proprietary or trade secret source code.

2 (b) Protected Material designated as “HIGHLY CONFIDENTIAL – SOURCE CODE”  
3 shall be subject to all of the protections afforded to “HIGHLY CONFIDENTIAL –  
4 ATTORNEYS’ EYES ONLY” information including the Prosecution Bar set forth in Paragraph 8,  
5 and may be disclosed only to the individuals to whom “HIGHLY CONFIDENTIAL –  
6 ATTORNEYS’ EYES ONLY” information may be disclosed, as set forth in Paragraphs 7.3 and  
7 7.4.

8 (c) Any source code produced in discovery shall be made available for inspection in a  
9 format allowing it to be reasonably reviewed and searched during normal business hours (9:00 am  
10 to 6:00 pm local time) or other mutually agreeable times at an office of the Producing Party’s  
11 counsel (which will be in Palo Alto, California for Defendant) or another mutually agreed upon  
12 location. The source code shall be made available for inspection on a secured computer (“Source  
13 Code Computer”) in a secured room. Such inspection shall occur upon reasonable notice to the  
14 Producing Party, which must not be less than two (2) business days in advance of the requested  
15 inspection. While in the room containing the Source Code Computer, the Receiving Party is  
16 prohibited from accessing any device with Internet access or network access to other computers,  
17 and the Receiving Party shall not copy, remove, or otherwise transfer any portion of the source  
18 code onto any recordable media or recordable device. The Producing Party may visually monitor  
19 the activities of the Receiving Party’s representatives during any source code review, but only to  
20 ensure that there is no unauthorized recording, copying, or transmission of the source code. All  
21 persons entering the inspection room where the Source Code is being viewed shall sign a log that  
22 includes the names of persons who enter the room and the dates and times when they arrive and  
23 depart for the day.

24 (d) The Receiving Party may request paper copies of limited portions of source code  
25 that are reasonably necessary for the preparation of court filings, pleadings, expert reports, or other  
26 papers, or for deposition or trial, but shall not request paper copies for the purposes of reviewing  
27 the source code other than electronically as set forth in paragraph (c) in the first instance. Within  
28 three (3) business days of such request, the Producing Party shall provide five copies of all such

1 source code in paper form, including bates numbers and the label “HIGHLY CONFIDENTIAL -  
2 SOURCE CODE.” The Producing Party may challenge the amount of source code requested in  
3 hard copy form pursuant to the dispute resolution procedure and timeframes set forth in Paragraph  
4 6 whereby the Producing Party is the “Challenging Party” and the Receiving Party is the  
5 “Designating Party” for purposes of dispute resolution.

6 (e) The Receiving Party shall maintain a record of any individual who has inspected  
7 any portion of the source code in electronic or paper form. The Receiving Party shall maintain all  
8 paper copies of any printed portions of the source code in a secured, locked area. The Receiving  
9 Party shall not create any electronic or other images of the paper copies and shall not convert any  
10 of the information contained in the paper copies into any electronic format. The Receiving Party  
11 shall only request additional paper copies if such additional copies are (1) necessary to prepare  
12 court filings, pleadings, or other papers (including a testifying expert’s expert report), (2)  
13 necessary for deposition, or (3) otherwise necessary for the preparation of its case. Any paper  
14 copies used during a deposition shall be retrieved by the Producing Party at the end of each day  
15 and must not be given to or left with a court reporter or any other unauthorized individual.

16 (f) The Producing Party shall install tools that are sufficient for viewing the Source Code  
17 produced for inspection on the Source Code Computer. The Parties shall meet and confer regarding  
18 any additional tools that the Receiving Party may request be added. To the extent additional tools  
19 are provided at the request of the Receiving Party, the Receiving Party is responsible for securing  
20 the appropriate licenses to such software tools.

21 (g) No recordable media or recordable devices, including, without limitation, sound  
22 recorders, computers, peripheral equipment, cameras, CDs, DVDs, or drives of any kind, will be  
23 permitted into the Source Code review room. Cellular telephones may be permitted into the Source  
24 Code review room, but they must be powered off before entering.

25 (h) The Receiving Party’s Outside Counsel and/or experts/consultants will be entitled to  
26 take notes relating to the Source Code but may not copy the Source Code into the notes. For  
27 avoidance of doubt, the Receiving Party may take these notes with them out of the room containing  
28 the Source Code and transfer their contents to electronic form (e.g., by scanning or typing).

10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
LITIGATION

1 If a Party is served with a subpoena or a court order issued in other litigation that compels  
2 disclosure of any information or items designated in this action as “CONFIDENTIAL” or  
3 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL –  
4 SOURCE CODE” that Party must:

5 (a) promptly notify in writing the Designating Party. Such notification shall include a copy  
6 of the subpoena or court order;

7 (b) promptly notify in writing the party who caused the subpoena or order to issue in the  
8 other litigation that some or all of the material covered by the subpoena or order is subject to this  
9 Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

10 (c) cooperate with respect to all reasonable procedures sought to be pursued by the  
11 Designating Party whose Protected Material may be affected.

12 If the Designating Party timely seeks a protective order, the Party served with the subpoena  
13 or court order shall not produce any information designated in this action as “CONFIDENTIAL”  
14 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY  
15 CONFIDENTIAL – SOURCE CODE” before a determination by the court from which the  
16 subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The  
17 Designating Party shall bear the burden and expense of seeking protection in that court of its  
18 confidential material – and nothing in these provisions should be construed as authorizing or  
19 encouraging a Receiving Party in this action to disobey a lawful directive from another court.

20 11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS  
LITIGATION

21 (a) The terms of this Order are applicable to information produced by a Non-Party in  
22 this action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
23 ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE”. Such  
24 information produced by Non-Parties in connection with this litigation is protected by the  
25 remedies and relief provided by this Order. Nothing in these provisions should be construed as  
26 prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

1. promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

2. promptly provide the Non-Party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information requested; and

3. make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Producing Party may produce the Non-Party's confidential information responsive to the discovery request, unless doing so would not comply with a contractual obligation of the Producing Party to the Non-Party to provide notice longer than 14 days, in which case the applicable notice period shall be such contractual obligation period. Regardless of such period, the Producing Party shall endeavor to resolve any concerns regarding notice within 30 days. If the Non-Party timely seeks a protective order, the Producing Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

(c) Any discovery requests, including subpoena and deposition notices, propounded to Non-Parties must be accompanied by a copy of this Stipulated Protective Order.

## 12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected

1 Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the  
2 terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and  
3 Agreement to Be Bound" that is attached hereto as Exhibit A.

4 13. **INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED**  
**MATERIAL**

5 The Parties and Court expect to enter a separate Order under Fed. R. Evid. 502(d) that  
6 governs the production of documents protected from discovery.

7 14. **MISCELLANEOUS**

8 14.1 **Right to Further Relief.** Nothing in this Order abridges the right of any person to  
9 seek its modification by the court in the future.

10 14.2 **Right to Assert Other Objections.** By stipulating to the entry of this Protective  
11 Order no Party waives any right it otherwise would have to object to disclosing or producing any  
12 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no  
13 Party waives any right to object on any ground to use in evidence of any of the material covered  
14 by this Protective Order.

15 14.3 **Export Control and Prohibition on Protected Material Leaving the United States.**  
16 Disclosure of Protected Material shall be subject to all applicable laws and regulations relating to  
17 the export of technical data contained in such Protected Material, including the release of such  
18 technical data to foreign persons or nationals in the United States or elsewhere. The Producing  
19 Party shall be responsible for identifying any such controlled technical data, and the Receiving  
20 Party shall take measures necessary to ensure compliance with applicable export control laws,  
21 including confirming that no unauthorized foreign person has access to such technical data.

22 No Protected Material may leave the territorial boundaries of the United States of America  
23 without consent of the Producing Party, which shall not be unreasonably withheld for purposes  
24 such as international depositions where Protected Material would be necessary. Without  
25 limitation, this prohibition extends to Protected Material (including copies) in physical and  
26 electronic form. The viewing of Protected Material through electronic means outside the  
27 territorial limits of the United States of America is similarly prohibited. The restrictions contained  
28

1 within this paragraph may be amended through the express written consent of the Producing Party  
2 to the extent that such agreed to procedures conform with applicable export control laws and  
3 regulations. Nothing in this paragraph is intended to remove any obligation that may otherwise  
4 exist to produce documents currently located in a foreign country.

5       14.4    Filing Protected Material. Without written permission from the Designating Party  
6 or a court order secured after appropriate notice to all interested persons, a Party may not file in  
7 the public record in this action any Protected Material. A Party that seeks to file under seal any  
8 Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed  
9 under seal pursuant to a court order authorizing the sealing of the specific Protected Material at  
10 issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a request  
11 establishing that the Protected Material at issue is privileged, protectable as a trade secret, or  
12 otherwise entitled to protection under the law. If a Receiving Party's request to file Protected  
13 Material under seal pursuant to Civil Local Rule 79-5 is denied by the court, then the Receiving  
14 Party may file the Protected Material in the public record pursuant to Civil Local Rule 79-5 unless  
15 otherwise instructed by the court.

16       15.    FINAL DISPOSITION

17       Within 60 days after the final disposition of this action, as defined in paragraph 4, each  
18 Receiving Party must return all Protected Material to the Producing Party or destroy such material.  
19 As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
20 summaries, and any other format reproducing or capturing any of the Protected Material. Whether  
21 the Protected Material is returned or destroyed, the Receiving Party must submit a written  
22 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)  
23 by the 60-day deadline that (1) identifies (by category, where appropriate) all the Protected  
24 Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained  
25 any copies, abstracts, compilations, summaries or any other format reproducing or capturing any  
26 of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival  
27 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,  
28 correspondence, deposition and trial exhibits, expert reports, attorney work product, and

1 consultant and expert work product, even if such materials contain Protected Material. Any such  
2 archival copies that contain or constitute Protected Material remain subject to this Protective Order  
3 as set forth in Section 4 (DURATION).

4  
5 IT IS SO ORDERED.  
6

7 Dated:  
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9 Honorable Vince Chhabria  
10 United States District Judge  
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EXHIBIT A

2

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3

I, \_\_\_\_\_ [print or type full name], of

4

\_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read  
5 in its entirety and understand the Stipulated Protective Order that was issued by the United States  
6 District Court for the Northern District of California on [date] in the case of *Kadrey, et al. v. Meta*  
7 *Platforms, Inc.*, Case No. 3:23-cv-03417-VC, I agree to comply with and to be bound by all the  
8 terms of this Stipulated Protective Order and I understand and acknowledge that failure to so  
9 comply could expose me to sanctions and punishment in the nature of contempt. I solemnly  
10 promise that I will not disclose in any manner any information or item that is subject to this  
11 Stipulated Protective Order to any person or entity except in strict compliance with the provisions  
12 of this Order.

13

I further agree to submit to the jurisdiction of the United States District Court for  
14 the Northern District of California for the purpose of enforcing the terms of this Stipulated  
15 Protective Order, even if such enforcement proceedings occur after termination of this action.

16

I hereby appoint \_\_\_\_\_ [print or type full name] of

17

\_\_\_\_\_ [print or type full address and telephone number]  
18 as my California agent for service of process in connection with this action or any proceedings  
19 related to enforcement of this Stipulated Protective Order.

20

Date: \_\_\_\_\_

22

City and State where sworn and signed: \_\_\_\_\_

23

Printed name: \_\_\_\_\_  
24 [printed name]

25

Signature: \_\_\_\_\_  
26 [signature]

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